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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/168,072	10/08/1998	NICK MARCHESANI	2413-101A	2085

24633 7590 02/08/2008
HOGAN & HARTSON LLP
IP GROUP, COLUMBIA SQUARE
555 THIRTEENTH STREET, N.W.
WASHINGTON, DC 20004

EXAMINER	
PIERCE, WILLIAM M	

ART UNIT	PAPER NUMBER
3711	

NOTIFICATION DATE	DELIVERY MODE
02/08/2008	ELECTRONIC

Response 5/8/08

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

dcptopatent@hhlaw.com

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February 28, 2008

BY FIRST CLASS MAIL

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Re: U.S. Patent Application No. 09/168,072
Title: LOW/MAX CARD GAME METHOD
AND APPARATUS
Inventor: Nick MARCHESANI
Our Reference No.: 82022-0101

Dear Nick and Joanne:

Enclosed for your files is a copy of an Office Action (non-final) dated February 8, 2008, with references cited by the Examiner, received from the U.S. Patent and Trademark Office.

The Examiner has withdrawn the earlier rejection but unfortunately, has continued to reject the application in view of the Breeding and Marquez references (enclosed). We can study these if you like and suggest a proposed response.

A response is due May 8, 2008, which may be extended until August 8, 2008, with payment of the appropriate extension fees. The estimated costs for us reviewing the references and drafting a response will be in the order of \$5,000.

Please let us know if you have any comments or instructions for responding to the Office Action.

We wish to remind you of Applicants' continued duty to disclose all information which is material to the patentability of the claims. If you are aware of relevant prior art which should be considered by the Examiner, please let us know immediately.

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DETAILED ACTION

Applicant's affidavit filed 11/21/07 states his date of invention as early as 5/6/98 and provides evidence in exhibit A. The examiner questions the authenticity of this document since its body is type written and the first and last pages containing the dates are hand written and appear to have been appended to the document. However, exhibit C dated 8/5/1998 showing an attorney communication regarding their "Reference: 2413-101" does not appear to be in question. This date is considered to establish an earlier effective date than 8/25/98 to Srichayaporn and the grounds for rejection has been removed.

Claim Rejections - 35 USC § 103

Claim 28, 31, 32, 33, 34, 37, 38, 39, 40, 41, 43-47, 57, 59-361 are rejected under 35 U.S.C. 103(a) as being unpatentable over Breeding 5,248,142 in view of Marquez 5,294,128.

As to claims 28, 33 and 57 Breeding shows a standard deck of cards (col. 4, ln. 33), dealing seven cards (as claimed from 3 to 7), each player making a single wager and placing a single wager prior to viewing cards (col. 5, ln. 13). In Breeding, he splits his cards into a two card and a five card hand and each hand must out rank the spit hands of the dealers. With respect to the number of cards in each hand to "not exceed the total number...by more than one, Marquez teaches in splitting six dealt cards into a one card high hand, two card high hand and three card low hand. He teaches that the number of cards and divided hands is "preferable" (col. 2, ln. 65). Here Marquez teaches that the number of cards and divided hands in a game like that of Breeding is

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Notice of References Cited	Application/Control No. 09/168,072	Applicant(s)/Patent Under Reexamination, MARCHESANI, NICK	
	Examiner William M. Pierce	Art Unit 3711	Page 1 of 1

U.S. PATENT DOCUMENTS					
*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-5,984,310	11-1999	English, Toby J.	273/292
*	B	US-6,206,374	03-2001	Jones, Daniel A.	273/292
	C	US-			
	D	US-			
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

		FOREIGN PATENT DOCUMENTS				
*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
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	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS		
*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

U.S. Patent and Trademark Office
PTO-892 (Rev. 01-2001)

Notice of References Cited

Part of Paper No. 20080202